Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of

Telecommunications Relay Services for Individuals with Hearing and Speech Disabilities — CC Docket No. 03-123

Comment

Petition for Clarification Concerning the Provision of Deaf Blind Relay Service (DBRS)

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I. Procedural History

On May 18, 2007, Hawk Relay filed a petition for clarification with the Federal Communications Commission (the Commission) for a ruling determining a new form of relay service, Deaf Blind Relay Service (DBRS), to be considered a form of relay service under Section 225 and eligible for reimbursement from the Interstate TRS Fund. On January 4, 2008, the Commission published a public notice in the Federal Register seeking comment on the proposed new form of relay service with comments due on February 4 and reply comments due on February 19. With this filing, Hawk Relay is submitting its comments on the one of the questions listed in the notice.

II. Introduction

This filing will address the question of 'whether DBRS falls within the definition of TRS as set forth in section 225(a)(3) of the Communications Act of 1934, 47 U.S.C. 225(a)(3)[1].' Furthermore, the notice stated that the proposed service 'does not fit within the typical two leg-relay paradigm in

[1] *See* Public Notice, *Petition for Clarification Concerning the Provision of Deaf Blind Relay Service*, CG Docket 03-123, published in the Federal Register, January 4, 2008 (*Public Notice*).

which a relay center receives and places inbound and outbound calls between the end users to the relay call[2].'

III. Deaf Blind Population's Struggles with Modern Technology

The telephone is a ubiquitous tool that has evolved many times over since its inception in 1876. It is difficult to imagine life not being able to immediately, and effortlessly, get in touch with our colleagues, friends, and family for business and pleasure alike simply by dialing a set of numbers. Yet, the everyday reality of the approximately 40,000-70,000 Americans who are deaf and blind[3] is that they are shut out of telephone usage or, at best, restricted to time-consuming and ineffective means of using telephones such as Braille TTYs, devices that are quickly becoming obsolete with relay service technology innovations.

Hawk Relay is aware that there are state program offerings that provide tactile telebraille and large text display TTYs Also, several states have 'Reduced Typing Speed Service' where the buffer speed of relay agents limits the output to 15 words per minute to allow the person to keep up with the conversation. However, when one compares these traditional offerings with the potential provisions of new relay services, these traditional offerings do not have the greater functional equivalency Congress mandated.

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[2] *Id.*

[3] http://www.aadb.org/deafblind/DB_definition.htm

It all boils down to this: the deaf-blind population still lacks functionally equivalent access to telephone services guaranteed by Title IV of the Americans with Disabilities Act of 1990 (ADA) which Hawk Relay would like to note that it came into law more than fifteen years ago. They do not have access to interaction with the general public that the other relay users take for granted.

The economic and societal costs are enormous. Deaf-blind Americans are not able to gain, and retain employment that requires some degree of telephone use; conduct personal affairs with a larger degree of independence; and establish, and maintain, professional and personal relationships via the telephone.

The TRS provision of this Act guarantees equal access to the telephone system for *everyone*. In the past decade, the Commission has recognized various forms of relay services that have provided tremendous economic and personal benefits to numerous segments of the deaf and hard of hearing populations. Yet, people who are deaf and blind have not enjoyed the improved access to telephone services that deaf people, hard of hearing people, and blind people have experienced.

IV. Deaf Blind Relay Service

Hawk Relay proposed a new form of relay service to be provided on a national level allowing the deaf-blind population to achieve greater access

to the telecommunications systems and greater functional equivalency. This unique combination of modern technology and manpower of the local deaf-service organizations has the potential to achieve the two overarching goals of Title IV, equal access and functional equivalency, for the deaf-blind population.

Deaf-blind people have varying levels and degrees of hearing and sight loss. Therefore, communication modes vary within the population. Some deaf-blind people—especially those with residual sight—might prefer watching a sign language interpreter up close, for example. Other deaf-blind people might place their hands on those of an interpreter and follow what is being said in a process known as tactile interpreting.

To meet the varying specialized needs, the Deaf Blind Relay Service (DBRS) will utilize what is known in the deaf-blind field as Communication Facilitators (CFs). These CFs will be to DBRS what Communication Assistants (CAs) are to present-day Telecommunication Relay Services (TRS) and what Video Interpreters (VIs) are to present-day Video Relay Services (VRS).

The provision of the CFs will be done in two forms. First, a CF would go to the location of the deaf-blind relay user. The other option includes the use of Deaf Blind Telecommunications Access Centers where such relay users are to travel to the center to place a call through a CF.

With both options, the steps involved in the provision of this relay service include:

1. CF establishes connection with telephone bridge operated by the relay service provider
2. CF dials telephone number of the end user
3. CF commences interpreting between deaf-blind person and other party.
4. The deaf and blind person signs for him/herself to the CF.
5. The CF voices to the other party.
6. The CF interprets the hearing person's spoken words into sign, with the deaf-blind person following along either tactilely or by viewing the CF's signs up close

Hawk Relay would like to note that at no time would the customer subsidize the costs for the connection between the CF and the receiving party.

A. An experimental program launched in the state of Washington similar to the Hawk Relay proposal shows that there is considerable demand for this type of service. The results of the program, managed by the Deaf-Blind Service Center and funded by the Washington State Office for the Deaf and Hard of Hearing, are positive. 73 percent of the deaf-blind users who employed the services of the communication

facilitators were able to access the telephone networks from a corpus where 90% was previously unable to access the telephone. Initial success results led to additional funding to expand the program state-wide.

V. Discussion: DBRS Qualifies as a Telecommunications Relay Service under Section 225(a)(3)

In this comment, Hawk Relay intends to show that DBRS should be seen as a form of relay service eligible for reimbursement by arguing that DBRS fits the definition of telecommunications relay service under Section225(a)(3).

Section 225[4] and the regulations implementing Title IV of the ADA define telecommunications relay services as '[t]elephone transmission services that provide the ability for an individual who has a hearing or speech disability to engage in communication by wire or radio with a hearing individual in a manner that is functionally equivalent to the ability of an individual who does not have a hearing or speech disability to communicate using voice communication services by wire or radio.'[5]

In deciding whether a service qualifies as a telecommunications relay service as defined by Section 225, one needs to consider whether it would provide the ability for an individual with a hearing or speech disability to

[4] 47 U.S.C. § 225 (a)(3)
[5] 47 C.F.R. § 64.101 (15)

engage in communication with a hearing individual in a functionally equivalent manner. The provision of DBRS clearly fits this definition. It provides an individual who has both visual and auditory limitations the ability to engage in communication in a greater functionally equivalent manner. By using tactile interpreting or being able to see the interpreter up-close, this relay service provides users with a more efficient way to communicate with the world at large. Compared with the current provisions, the lag time is considerably less, if at all. Such users would be able to reply more quickly making the conversation real-time. This real-time aspect was noted when the Commission approved video relay services as a TRS eligible for compensation. Clearly, real-time conversations make the service more functionally equivalent.

Greater functional equivalency, relatively speaking, merits some extra discussion. At present, there are various options in where a deaf-blind person can make a relay call. As pointed out earlier in this comment, there is the Braille TTY and TTYs with large print text display. If the individual has some vision ability, he may also use video relay service, with a large or magnified screen display or simply just approach the television very closely and at least attempt to discriminate every sign made by the video relay interpreter. While these current options are available for such deaf-blind relay users, they are not efficient to allow for

greater functional equivalency. There are time lags when using the traditional TRS services with Braille TTYs and the conversation can go on for a long time with a great number of lengthy delays increasing the risks of dropped connections and hang-ups. As for using VRS, deaf blind users with limited vision ability generally are not able to capture everything an interpreter signs. Clearly, both options are not efficient. In any case, the availability of options or the lack thereof should not be a consideration in whether to determine whether a proposed service qualifies as a TRS under § 225.

In addition to this consideration, the Commission suggests that one must also consider whether it fits within 'the typical two-leg paradigm in which a relay center receives and places inbound and outbound calls between the end users to the relay call.'[6] Before going into depth with the question of whether a relay service must consist of a two-way conversation, Hawk Relay would like to discuss that DBRS does fit the traditional two-way paradigm. A CF relays information between the deaf blind user and the hearing party. The fact that a telecommunications network is utilized only for one leg of the call (from the CF to the hearing party) should not be a factor in this consideration for the 'typical two-leg paradigm.' What should be considered here is that the CF is the center of

[6] See *Public Notice*.

the relay call or to be more specific, the relay center, relaying messages between both parties and it does engage in communication using wire and radio.

This assertion apparently is based on the second sentence of the definition for telecommunications relay service. This particular sentence clarifies that TRS 'includes services that enable two-way communication between an individual who uses a text telephone or other nonvoice terminal device and an individual who does not use such a device, speech-to-speech services, video relay services and non-English relay services.'[7] Even if DBRS is not considered as a service that fits the two-leg paradigm because the customer does not have a text telephone or other nonvoice terminal device[8], that alone should not render it an ineligible service as the word 'include' in the clarifying text is not a limiting one.

To reiterate, DBRS is a two-way communication service that provides the deaf-blind user and his unique limitations an efficient and more functionally equivalent service compared with the existing options. That alone should qualify the provision as a relay service under Section 225 as Congress clearly mandated that access to telecommunications networks is to be made available to all individuals in the United States. The provision of access is to be done in a rapid and efficient manner and should be

[7] 47 C.F.R. § 64.101 (15)
[8] A Communication Facilitator is the terminal 'device' here and should be viewed accordingly.

available to the extent possible and in the most efficient manner to hearing-impaired and speech-impaired individuals in the United States and recognition by the Commission of DBRS as a relay service will further this goal. At this time, the deaf-blind population is under-utilizing the telephone systems of this Nation and this needs to be rectified.